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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,970	11/03/2003	Steffen Arnold	102132-16 CH	5020
27388	7590	11/02/2006	EXAMINER	
NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/699,970

Applicant(s)

ARNOLD, STEFFEN

Examiner

Melanie J. Hand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,5-8,10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,5-8,10 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/11/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 2, 5-8, 10 and 12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on July 11, 2006 was filed after the mailing date of the Application on November 3, 2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2, 7, 8, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arias et al (U.S. Patent No. 5,429,596).

With respect to **Claim 12**: Arias teaches a medical flushing and suctioning device 100 for flushing and suctioning off a wound area, comprising a housing 102, a flushing and suctioning lancet 112 extending from the housing; a suction pump including a depressable trigger 104 (i.e. a plunger) that operates suction valve disk 1308 (hence the plunger functions as a pump together with valve disk 1308), a flushing pump including an irrigation plunger 106 extending through the housing 102 (Fig. 13a) that operates flushing valve disk 1310 (hence, again, the

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plunger functions as a pump in combination with valve disk 1310). Suction pump 104 includes an outlet into chamber 1320, and flushing pump 106 has an outlet into chamber 1320 (Fig. 13a). Valve 1300 is connected to the lancet 112a and has at least two switchable valve positions, wherein one of the at least two valve positions is connected to the suction pump via suction valve disk 1308. A second of at least two valve positions is connected to flushing pump 106 via flushing valve disk 1310. By switching between the at least two valve positions, a flushing fluid is provided to the flushing and suctioning lancet via irrigation conduit 1304 and the lancet is switched to a suction function by sealing port 1306 via valve seal 1308. The switchable valve positions are supported by spring-biased plungers 104 and 106. Plungers 104 and 106 have transverse member 1320 having two spaced apart bores 1381, 1383, respectively, and sliders 1312, 1316 respectively, arranged on the transverse member and engaging bores 1391, 1393. The plungers are arranged in housing 102 such that the bores 1381, 1383 of the transverse member 1320 align with said plungers (and respective pumps). The bores 1391 and 1393 overlap, or cover up, one of the transverse member bores, such that upon depressing a plunger 104 or 106, only that plunger is actuated so that either the suction or flushing pump is operated. (Figs. 1b, 13a,c, Col. 7, lines 27-29, Col. 25, lines 12-48)

Arias does not teach a separate lever to accomplish the switching function between valve positions, however since the valve assembly of Arias accomplishes the identical goal of providing a switching function between suction and flushing without actuating the other function accidentally, it would be obvious to one of ordinary skill in the art to provide a lever that is actuated by the springs taught by Arias as an alternate means of accomplishing the switching function.

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With respect to **Claim 2**: Device 100 further comprises flushing container 1414a connected to the outlet of pump 106 (Fig. 14a) and suction container 1414b connected to suction pump 104. (Col. 25, lines 65-68, Col. 26, lines 1-5, 13-20)

With respect to **Claim 7**: Arias teaches that flushing container 1414a is non-removably integrated in the device. (Col. 7, lines 62-66)

With respect to **Claim 8**: Arias teaches that both suction and flushing pumps 104, 106, respectively, are operated alternately. (Col. 25, lines 12-48)

With respect to **Claim 10**: Device 100 comprises a flushing-suction tube 112, but does not teach that said tube 112 includes a flushing channel and a suction channel. Arias refers to U.S. Patent No. 3,810,471 to Truhan which teaches a combination suction irrigation device with a flushing-suction tube comprising a suction tube located within, and coaxial with, an irrigation tube. (Col. 1, lines 21-27) Arias teaches that this is a known variation on the well-known combined suction/irrigation device, therefore it would be obvious to one of ordinary skill in the art to modify the tube taught by Arias so as to contain a flushing channel and a suction channel, as is known in the art.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arias ('596) in view of Moberg et al (U.S. Patent No. 5,230,704).

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With respect to **Claims 5,6**: Arias teaches that one of the at least one collection container is sealable (Col. 7, lines 62-66), but does not teach that such at least one collection container is removable.

Moberg teaches that the irrigation fluid is saline and under pressure and coupled to end 92 of tube 48, therefore said irrigation container is both removable and sealable. This allows the container to be rapidly cleaned and refilled if necessary, therefore it would be obvious to one of ordinary skill in the art to replace the flushing container taught by Arias with a removable flushing container as taught by Moberg so as to be interchangeably arranged on the suction and flushing pumps as taught by Arias, since Arias teaches that container 1414a may be used for either a suction or flushing container.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand  
Examiner  
Art Unit 3761

MJH

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

